

AMENDMENTS TO THE DRAWINGS:

The attached Replacement Drawing Sheets containing Figs. 1-3 and 4-6, respectively, replace the previously-filed drawing sheets containing Figs. 1-3 and 4-6. No new matter has been added. Entry of the attached drawing sheets is requested.

Attachment: Two (2) Replacement Drawing Sheets

REMARKS

Claims 10-27 were previously pending in the application and Claims 1-9 were previously canceled. By the Amendment, Claims 10, 14, 16, 23, and 25 are currently amended and Claims 11-13, 15, 17-22, 24, 26, and 27 remain unchanged.

Allowable Subject Matter

The Examiner has indicated that claims 16, 18, 25, and 27 are distinguished over the art and would be allowable if amended to address the rejections under 35 U.S.C. § 112, second paragraph, that were identified by the Examiner. Accordingly, appropriate correction has been made to claims 16 and 25 and thus Applicant respectfully submits that all of the claims, including claims 16, 18, 25, and 27, are in allowable form.

Amendments to the Drawings

The Examiner has objected to the drawings for failing to label Figures 1-3 as "Prior Art." Accordingly, Applicants submit an amended drawing sheet containing Figures 1-3 labeled as "Prior Art."

The Examiner has objected to the drawings for failing to show every feature of the invention specified in the claims, specifically the "second closure element" and the "second transverse edges" of the walls. Accordingly, Applicants submit an amended drawing sheet containing an amended version of Figure 4 showing these claimed features, wherein the "second closure element" is labeled as element 29 and the "second transverse edges" are labeled as elements 30 and 31.

The amendments are fully supported by the originally-filed specification and thus no new matter is added. The amended version of Figure 4 adds a cross-sectional view of the lower portion of the door, the upper portion of which was shown in the original version of Figure 4. The added view of the lower portion of the door shows the "second closure element 29" and the "second transverse edges 30, 31" as claimed.

The original specification clearly describes these features:

A second closure element forming a closure, which is opposite the first closure element, of the intermediate space is preferably fastened in

conventional manner to second transverse edges, which are flush with one another, of outer wall and inner wall. This second closure element can thus be identical with a closure element also used for production of a door according to FIG. 1.

Page 4, lines 3-7 (emphasis added).

Similarly:

The intermediate space 19 of the door 12 is closed at the lower edge, which is not shown in FIG. 4, by a second closure element. Since the edges of the walls 14, 15 are flush at their lower edge of the door 12, this second closure element has the shape of the closure element 6 of FIG. 1.

Page 6, lines 6-9 (emphasis added).

Thus, the specification makes clear that the lower (“second transverse”) edges of the walls are even, or flush, with one another and that the second closure element is the same as the closure element shown in Figure 1. Since this encompasses the subject matter that has been added to Figure 4 by amendment, the amendments to Figure 4 are fully supported by the original specification and no new matter is added.

Applicants respectfully request that the objections to the drawings be reconsidered and withdrawn.

Amendments to the Specification

The Examiner has objected to the specification for referencing the claims. Accordingly, Applicants have amended the specification to remove references to the claims. The Examiner has also objected to the specification for lacking headings. Accordingly, Applicants have amended the specification to include headings. Thus, Applicants respectfully request that the objections to the specification be reconsidered and withdrawn.

The specification has also been amended to reflect the changes to Figure 4 that are described above. The text has been amended to include the reference numbers 29-31 which indicate the “second closure element 29” and “the second transverse edges 30, 31.” As detailed above, these amendments are fully supported by the original specification and no new matter is added.

Rejection of the Claims under 35 U.S.C. § 112

The Examiner has rejected claims 14 and 23 under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. Specifically, the Examiner argues that it is unclear how the flank portion is variably adjustable in height.

Applicants have amended claims 14 and 23 to clarify the subject matter, indicating that a height of the flank portion is adjusted to compensate for the difference in length between the inner wall and the outer wall of the door.

The Examiner has rejected claims 16 and 25 under 35 U.S.C. § 112, first paragraph, for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, in claims 16 and 25 the Examiner argues that the phrase “the second transverse edges” lacks antecedent basis. Applicants have amended claims 16 and 25 to clarify the subject matter and to address the Examiner’s rejection under Section 112.

Amendments to the Claims

Applicants have amended claim 10 to recite that when the door of the refrigerating appliance is in a closed position, the first closure element covers at least one of a control or an indicating field of the refrigerating appliance. Support for this amendment is found at least in Figures 4 and 6 and in the specification on page 6, lines 2-3: “In the state shown in Fig. 4 the control panel 13 is completely covered by the door 12; when the door is open, it is freely visible and accessible.” Thus, no new matter is added.

Applicants have also amended claim 16 by incorporating the language of claim 10, thereby making claim 16 an independent claim, in accordance with the Examiner’s instructions. Therefore, no new matter has been added.

Rejection of the Claims under 35 U.S.C. § 102

The Examiner has rejected claims 10, 11, 13, 17, 19, 20, 22, and 26 under 35 U.S.C. § 102(b) as being anticipated by McClellan (USP 2,750,901). However, in view

of the arguments and amendments presented herein, Applicants respectfully submit that the rejections are overcome and respectfully requests that they be reconsidered and withdrawn.

McClellan discloses a fire- and burglar-resistant metal cabinet, not a refrigerating appliance or a door for a refrigerating appliance as claimed. Contrary to the Examiner's assertion, the device of McClellan is not an "appliance" of any sort, and certainly not a refrigerating appliance.

Among the claim elements McClellan fails to disclose is the "control or indicating field" mounted on the body of the appliance. The specification of the present application states that the control or indicating fields are "for influencing or indicating the operational state of the refrigerating appliance." Page 5, lines 2-3.

The Examiner states that element 88 of McClellan is an "indicating field" as claimed. However, McClellan identifies this element as "reverse bent grooves 88" (col. 5, lines 72). Further, it can be seen in Figure 16 that the reverse bent groove 88 is simply a folded portion of the metal cabinet and does not perform any indicating or control function.

The Examiner has rejected claims 10, 11, 13, 17, 19, 20, 22, and 26 under 35 U.S.C. § 102(b) as being anticipated by Nelson et al. (USP 4,685,402). However, in view of the arguments and amendments presented herein, Applicants respectfully submit that the rejections are overcome and respectfully requests that they be reconsidered and withdrawn.

Similar to McClellan, Nelson et al. discloses a fire-resistant metal cabinet, not a refrigerating appliance or a door therefor. Again, contrary to the Examiner's assertion, the device of McClellan is not an "appliance" of any sort, and certainly not a refrigerating appliance.

Among the claim elements that Nelson et al. fail to disclose is the "control or indicating field" mounted on the body of the appliance. The specification of the present application states that the control or indicating fields are "for influencing or indicating the operational state of the refrigerating appliance." Page 5, lines 2-3.

The Examiner states that element 47 of Nelson et al. is an “indicating field” as claimed. However, Nelson et al. identify this element as a “door jam[b] 47” (col. 2, line 52). Further, it can be seen in Figure 5 that the door jamb 47 is simply a portion of the metal cabinet that does not perform any indicating or control function.

Accordingly, independent claims 10 and 19 are allowable. In addition, claims 11-15, 17, and 20-27 are allowable for at least the reason that they depend from one of allowable independent claims 10 or 19.

Rejection of the Claims under 35 U.S.C. § 103

The Examiner has rejected claims 12, 15, 21, and 24 under 35 U.S.C. § 103(a) as being obvious in view of McClellan (USP 2,750,901). The Examiner has also rejected claims 12, 15, 21, and 24 under 35 U.S.C. § 103(a) as being obvious in view of Nelson et al. (USP 4,685,402). However, in view of the arguments presented herein, Applicants respectfully submit that the rejections are traversed.

As part of the obviousness rejection, the Examiner takes Official Notice that plastic insulation panels/parts (claims 12 and 21) and plastic insulation panels/parts having various dimensions (claims 15 and 24) are well known in the art. If the Examiner wishes to take Official Notice of the above statements, Applicants request that the Examiner produce authority for these statements. If the Examiner is relying on personal knowledge to support the finding of what is known in the art, Applicants request that the Examiner provide an affidavit or a declaration setting forth the specific factual statements and explanations to support the findings. If the Examiner is aware of a reference or other documentary evidence containing such information, Applicants respectfully request that the Examiner provide this documentary evidence in the next Office action.

Considering the Examiner’s rejection on its face, for sake of argument, one skilled in the art would not have modified the cabinet of either McClellan or Nelson et al. to add plastic components as claimed. Given that the cabinets disclosed in both McClellan and Nelson et al. are intended to be fire-resistant, addition of a plastic closure element would change the operation of the cabinets and render them inoperable for their intended purpose. “[T]he claimed combination cannot change the principle of operation of the

primary reference or render the reference inoperable for its intended purpose.” MPEP § 2145 (8th Ed., rev. 6, Sept. 2007).

Thus, the obviousness rejections are inappropriate and Applicants respectfully request that they be reconsidered and withdrawn.

Therefore, dependent claims 12, 15, 21, and 24 are allowable at least because they depend from an allowable independent claim.

CONCLUSION

In view of the above, entry of the present Amendment, reconsideration of the rejections and objections, and allowance of Claims 10-27 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Craig J. Loest', is written over the printed name.

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